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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/807,154	04/09/2001	Rudolf Flosbach	327 084	4211

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EXAMINER

JACKSON, ANDRE K

ART UNIT	PAPER NUMBER
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2856

DATE MAILED: 07/05/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/807,154

Applicant(s)

FLOSBACH, RUDOLF

Examiner

Andre' K. Jackson

Art Unit

2856

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Priority***

1. Acknowledgment is made of applicant's claim for foreign priority under 35 U.S.C. 119(a)-(d). The certified copy has been filed in parent Application No. 09/807154, filed on 4/1/01.

### ***Specification***

2. The disclosure is objected to because of the following informalities:

Page 3, lines 26 and 27 [sic:63] and [sic:62] Examiner does not understand its meaning.

Page 6, line 24 [sic:user?] Examiner does not understand its meaning.

Appropriate correction is required.

### ***Claim Objections***

3. Claims 5 and 6 are objected to because of the following informalities:

Regarding claim 5, line 2 what is meant by the word "stayed".

Regarding claim 6, line1 "as" must be removed.

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

4. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

5. Claims 1-20 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

Regarding claims 1-20 it is unclear as to what exactly is being detected by the leak detector. How is DE 19642099 being utilized to show how the level detection method is performed or does the reference only show what is known in the prior art.

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claims 1-20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The claims recite a film leak detector; however, only a film mounted frame is claimed. No means for detecting a leak has been recited in claim 1.

8. Regarding claims 4 and 11, the phrase "preferably" renders the claim indefinite because it is unclear whether the limitation(s) following the phrase are part of the claimed invention.

Claim 4 recites the limitation "recesses" in line 1, page 9. There is insufficient antecedent basis for this limitation in the claim.

Claim 18 recites the limitation "the corrugated tube" in line 2, page 11. There is insufficient antecedent basis for this limitation in the claim.

9. Claims 8 and 9 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 8, "as to float" is not giving a reference. The upper frame floats with respect to what?

### ***Claim Rejections - 35 USC § 103***

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. Claims 1,2,3,4,14-17 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over DE 19642099.

Regarding claim 1, DE 19642099 discloses two films stretched in a frame comprising two sub frames (Figure 3). The composition of the sub-frames is considered a design choice and clearly within the preview of the skilled artisan.

Regarding claim 2, DE 19642099 discloses that the films are clamped on the frames, which is a functional equivalent of being adhered or screw connected.

Regarding claims 3, DE 19642099 discloses the frames (4,5) comprise an outer (40, 50) and inner sub frame (41, 51) equipped with a recess shown in Figure 3.

Regarding claim 4, DE 19642099 does not disclose recesses that are equipped with lip seals. It is considered a design choice to have lip seals since the seals (17) in DE 19642099 perform the same function as the lip seal.

Regarding claim 14, DE 19642099 discloses a central connection port (21) and a line (18) connected to the port. What is not disclosed is the port being detachably connected. However, it is clearly within the purview of the skilled artisan to have the hose detachable for replacement of the hose.

Regarding claim 15, it is a well known practice in the art to have tubes made from synthetic materials.

Regarding claim 16, DE 19642099 does not disclose how the tube is made but it is considered a design choice to have a corrugated tube.

Regarding claim 17, it would be inherent to have a sealing ring in a connection port to keep a more secured fit.

Regarding claim 19, DE 19642099 discloses an articulation (hinge 7, Figure 1).

12. Claims 12 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over DE 19642099 in view of Yokogi.

Regarding claim 12, DE 19642099 does not disclose that the leak detector is equipped with a sniffer that can be deposited in a holder. However, Yokogi discloses a "Gas leakage detecting apparatus" which has a holder (70) for the sniffer (probe) (68)(Figure 1). Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to modify DE 19642099 to include a holder as taught by Yokogi since placing it in a holder would keep the sniffer (probe) away from possible damage. Also, using a sniffer offers the means to the artisan to accurately determine the presence of a leak in the films.

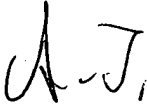
Regarding claim 13, DE 19642099 does not disclose that the leak detector is equipped with a support for the holder of the sniffer (probe).


However, Yokogi discloses wherein the leak detector is equipped with a holder for the sniffer (probe). What is not disclosed by Yokogi is a support for the holder. It is inherent that support be there to hold the holder in place.

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andre' K. Jackson whose telephone number is (703) 305-1522. The examiner can normally be reached on Mon.-Fri. 7AM-4PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hezron Williams can be reached on (703) 305-4705. The fax phone numbers for the organization where this application or proceeding is assigned are N/A for regular communications and N/A for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1782.

A.J.   
July 1, 2002

  
DANIEL S. LARKIN  
PRIMARY EXAMINER